

Ayer



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Oxford Project, Inc.--Request for Reconsideration  
File: B-228461.3  
Date: July 7, 1988

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### DIGEST

Request for reconsideration is denied where protester does not show that decision was legally or factually erroneous.

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### DECISION

Oxford Project, Inc., requests reconsideration of our decision in Oxford Project, Inc., B-228461, et al., Feb. 17, 1988, 88-1 CPD ¶ 156, denying in part and dismissing in part the firm's protest of the award of a contract to Manhattan House C.T.C., Inc., under request for proposals (RFP) No. 100-117-7-NE issued by the Federal Bureau of Prisons for residential halfway house services.

We deny the request.

The RFP had a single line item: the provision of services to an estimated 120 federal prisoners (also referred to as providing 120 beds). Of the two offerors, only Manhattan House offered to provide the entire 120-bed requirement, at \$33.96 per manday; Oxford Project offered to furnish 50 beds at a fixed price of \$41.16 per manday. In its protest, Oxford Project argued primarily that the agency should have made parallel awards--that is, awards to two different offerors for parts of the RFP's single line item--instead of the single aggregate award to Manhattan House.

The record showed that the source selection official initially contemplated parallel awards because of agency concerns about a projected increase in the inmate population, and the opinion of probation and court officials that facilities in two separate locales would be desirable. The record further showed that the official also considered making parallel awards in an amount greater than the amount solicited (awarding Manhattan House a contract for the 120 beds solicited while also awarding Oxford Project 40 additional "overflow" beds, for a total award of 160 beds). However, based on discussions with agency legal and procurement personnel, the acting source selection official

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concluded that there was no justification that would support parallel awards to both Manhattan House and Oxford Project; this decision subsequently was ratified by the head of the contracting activity.

We concluded that in certain circumstances an agency could make parallel awards,<sup>1/</sup> but where, as here, the agency lacked what we termed an "operational justification" for parallel awards it was proper for the agency to make a single aggregate award to the low offeror offering to furnish the entire line-item quantity.

In requesting reconsideration, Oxford Project essentially reiterates arguments it made in pursuing the protest, and expresses disagreement with our decision. Such reiteration and disagreement, however, do not establish that our decision was legally or factually wrong and therefore should be reversed. See 4 C.F.R. § 21.12(a) (1988); Roy F. Weston, Inc.--Request for Reconsideration, B-221863.3, Sept. 29, 1986, 86-2 CPD ¶ 364.

Oxford Project also complains that we failed to discuss and consider its allegation that contracting agency legal counsel erroneously advised the acting source selection official that split awards absolutely were prohibited. The firm argues that there was no basis in the record for our conclusion that there was no operational justification for parallel awards; in fact, Oxford Project argues there must have been justification for parallel awards because the source selection official initially proceeded as if two awards were warranted. Oxford Project contends that contracting agency legal counsel improperly interrupted this course of action with erroneous advice, and that but for such advice two awards would have been effected.

We were aware that the source selection official had acted on the basis of two justifications initially advanced within the agency as reasons for making parallel awards (concerns about a possible increase in inmate population, and the desirability of geographically separate facilities). However, the source selection official's determination concerning the validity of contracting on the basis of these justifications obviously was not considered final within the agency. When proper agency procurement and legal officials ultimately reviewed the matter, they found that neither justification constituted a sufficient reason to make parallel awards, and that only a single award to Manhattan House was appropriate.

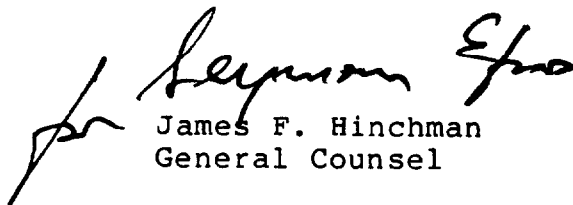
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<sup>1/</sup> For example, when no one offeror is a responsible source for the entire quantity required by the line item.

In our view, the agency counsel's advice, on review, to the acting source selection official that "multiple awards could not legally be made under the RFP and that only a single 120-bed contract award was permissible" is not objectionable since it reflects no more than legal advice that only a single award was proper because there was insufficient justification to support parallel awards.

Oxford Project next contends that we improperly concluded that Oxford Project, having offered to furnish only 50 of the needed 120 beds, was ineligible for award and thus was not prejudiced by the agency's decision not to withhold award to Manhattan House pending our resolution of the protest. Our finding, however, was based on the fact that because there was no justification for parallel awards only Manhattan House's offer--to furnish the entire quantity, and at a lower price than Oxford Project's partial offer--properly could be accepted. We see no reason to change that finding.

The request for reconsideration is denied.



James F. Hinchman  
General Counsel